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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

(A-570-851)

Certain Preserved Mushrooms from the People's Republic of China: Final Results of Antidumping Duty New Shipper Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On August 2, 2011, the Department of Commerce (the Department) published in the Federal Register the preliminary results of the new shipper reviews (NSRs) of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (PRC) for Guangxi Hengyong Industrial & Commercial Dev., Ltd. (Hengyong) and Zhangzhou Hongda Import & Export Trading Co., Ltd. (Co.) (Hongda).¹ See Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Reviews, 76 FR 46270 (August 2, 2011) (Preliminary Results). We gave interested parties an opportunity to comment on the preliminary results. We received a case brief from Hongda on August 31, 2011. We received no rebuttal briefs from any parties. Furthermore, as described further below, we also received various comments/responses from the parties on the Department's preliminary results, supplemental questionnaire, and letter on August 4, 2011, August 10, 2011, and September 19, 2011, respectively.

Based on the comments received, we have made changes to the preliminary results for these final results.

¹ In its request for review, Hengyong certified that it was the exporter and Hengyong Industrial & Commercial Dev. Ltd. Hengxian Food Division (Hengxian) was the manufacturer. See September 24, 2010, submission from Hengyong. In its request for NSR, Hongda certified it was the exporter and Fujian Haishan Foods Co., Ltd. (Haishan) was the manufacturer. See September 24, 2010, submission from Hongda.

EFFECTIVE DATE: (Insert the publication date in the Federal Register.)

FOR FURTHER INFORMATION CONTACT: Scott Hoefke, Fred Baker or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4947, (202) 482-2924, or (202) 482-0649, respectively.

SUPPLEMENTARY INFORMATION:

We published the preliminary results for these NSRs on August 2, 2011. In the preliminary results, the Department stated that interested parties were to submit case briefs within 30 days of publication of the preliminary results and rebuttal briefs within five days after the due date for filing case briefs. See Preliminary Results, 76 FR at 46276. We received two submissions from Hongda – comments on the preliminary results, filed on August 4, 2011, and a formal case brief, submitted on August 31, 2011.

On August 2, 2011, we also issued a supplemental questionnaire to Hengyong and Hongda, and received the responses on August 10, 2011.

On September 8, 2011, we issued a letter to interested parties soliciting comments on the correct surrogate value to use for the input cow manure. We received comments from Hengyong, Hongda, and Monterey Mushrooms, Inc. (petitioners) on September 19, 2011.

Analysis of Comments Received

As indicated above, we received a case brief from Hongda on August 31, 2011. Hongda alleged that there were two computational errors in the final results calculations. One was an error caused by Hongda having reported some factor values in its factors of production database on a basis different from that reported for other factors. Hongda argued this error can be easily

corrected with information already on the record. No other party submitted rebuttal comments on Hongda's argument. Upon review of the record and our calculations, we have determined that worksheets already on the record substantiate that Hongda made an error in how it reported some of the factor values, and that this error can indeed be easily corrected. We have corrected it for these final results of review. The second error was one in which the Department used an incorrect variable name in one line of the SAS calculations. Again, no party submitted rebuttal comments on Hongda's argument. A review of the record confirms that the Department used an incorrect variable name in the SAS calculations. We have corrected this error in the final results. For details, see Memorandum from Fred Baker to the File, Subject: "Analysis of Data Submitted by Zhangzhou Hongda Import & Export Trading Co., Ltd. (Hongda) in the Final Results of New Shipper Review of the Antidumping Duty Order on Preserved Mushrooms from the People's Republic of China (PRC)," dated October 24, 2011 (Hongda Final Results Analysis Memorandum).

In addition to the case brief, Hengyong, Hongda, and petitioners submitted comments on September 19, 2011, in response to the Department's September 8, 2011, letter to parties soliciting comments on the correct valuation of the input cow manure. Our September 8, 2011, letter included eight exhibits each consisting of a valuation source for cow manure different from the source we used in the preliminary results. In their September 19, 2011, comments, no party recommended our using any of the eight alternative possible sources in the final results. Furthermore, no party has suggested that we deviate from the source used in the preliminary results. Therefore, in these final results we have used the same source to value cow manure as we used in the preliminary results because we continue to find the source the most reliable on the

record for valuation of the input.

Period of Review

The period of review (POR) is February 1, 2010, through July 31, 2010.

Scope of the Order

The products covered by this order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The certain preserved mushrooms covered under this order are the species *Agaricus bisporus* and *Agaricus bitorquis*. “Certain Preserved Mushrooms” refers to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including, but not limited to, cans or glass jars in a suitable liquid medium, including, but not limited to, water, brine, butter or butter sauce. Certain preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are “brined” mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.²

Excluded from the scope of this order are the following: (1) All other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including “refrigerated” or “quick blanched mushrooms” (3) dried mushrooms; (4) frozen mushrooms; and (5) “marinated,” “acidified,” or “pickled” mushrooms, which are prepared or preserved by means

² On June 19, 2000, the Department affirmed that “marinated,” “acidified,” or “pickled” mushrooms containing less than 0.5 percent acetic acid are within the scope of the antidumping duty order. See Recommendation Memorandum - Final Ruling of Request by Tak Fat, et al. for Exclusion of Certain Marinated, Acidified Mushrooms from the Scope of the Antidumping Duty Order on Certain Preserved Mushrooms from the People’s Republic of China, dated June 19, 2000. On February 9, 2005, this decision was upheld by the United States Court of Appeals for the Federal Circuit. See Tak Fat Trading Co. v. United States, 396 F.3d 1378 (Fed. Cir. 2005).

of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to this order is classifiable under subheadings: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153 and 0711.51.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Separate Rates

In proceedings involving non-market economy (NME) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. See, e.g., Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079 (September 8, 2006), and Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China, 71 FR 29303 (May 22, 2006). It is the Department's policy to assign all exporters of merchandise subject to review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. See, e.g., Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 75 FR 24892, 24899 (May 6, 2010) (unchanged in Certain Coated Paper Suitable for High-Quality

Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 59217 (September 27, 2010)).

In the preliminary results, we found that Hengyong and Hongda demonstrated their eligibility for separate rate status. We received no comments from interested parties regarding this determination. In these final results of review, we continue to find the evidence Hengyong and Hongda placed on the record demonstrates an absence of government control, both in law and in fact, with respect to Hengyong and Hongda's exports of the merchandise under review. Thus, we have determined that Hengyong and Hongda are eligible to receive a separate rate.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our preliminary results, we have made revisions to the margin calculation for Hongda. These changes are discussed in the Hongda Final Results Analysis Memorandum. We made no changes to the calculations for Hengyong.

Final Results of Review

The Department has determined that the following margins exist for the period February 1, 2010, through July 31, 2010:

Exporter/Manufacturer	Weighted-Average Margin (Percent)
Hengyong (exporter) / Hengxian (manufacturer)	0.00
Hongda (exporter) / Haishan (manufacturer)	0.00

Assessment Rates

Pursuant to these final results, the Department determined, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions for Hengyong and Hongda to CBP 15 days after the date of publication of these final results of NSRs. Pursuant to 19 CFR 351.212(b)(1), we calculated importer-specific (or customer-specific) ad valorem duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by these reviews if any importer-specific (or customer-specific) assessment rate calculated in the final results of these reviews is above de minimis.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of NSRs for all shipments of subject merchandise by Hengyong and Hongda entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act): (1) for subject merchandise produced by Hengxian and exported by Hengyong, or produced by Haishan and exported by Hongda, the cash deposit rate will be zero; (2) for subject merchandise exported by Hengyong, but not manufactured by Hengxian, or exported by Hongda, but not manufactured by Haishan, the cash deposit rate will continue to be the PRC-wide rate (i.e., 198.63 percent); and; (3) for subject merchandise manufactured by Hengxian or Haishan, but exported by any party other than Hengyong or Hongda, respectively, the cash deposit rate will be the rate applicable to the exporter. These cash deposit requirements will remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

These NSRs and notice are in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

October 24, 2011 _____
(Date)

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